

Approved: March 7, 1994  
Date

## MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson William Bryant at 3:30 p.m. on February 16, 1994 in Room 527-S of the Capitol.

All members were present except: Representative Phil Kline, Excused  
Representative Henry Helgersen, Excused

Committee staff present: William Wolff, Legislative Research Department  
Bruce Kinzie, Revisor of Statutes  
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Chuck Bredhal, Office of Adjutant General  
Representative Nancy Brown  
Mickey Davis, EMD for Wyandotte County/KC  
Larry Blue, Interlutheran Disaster Response  
William Sneed, State Farm  
Bud Cornish, Property and Casualty Association  
Lee Wright, Farmers Group  
Rick Welborn, Alliance Insurance Company

### **HEARING ON HB 2800: Trust funds for emergency preparedness and disaster assistance created from revenues from surcharge on certain insurance policies**

Bill Wolff of Legislative Research explained that the bill would add a surcharge of \$1 to all homeowner's property and casualty policies and \$2 to every commercial property and casualty policy to be ultimately used for emergency preparedness. The money would be paid by the consumer to the insurance company, the insurance company would pay the surcharge to the Insurance Commissioner's office, that office would pay the money to the State Treasurer, and the State Treasurer would place the money in two different trust funds. Parts of the bill refer to how the trust funds are to be established, who will supervise these funds, and the establishment of the Adjutant General of the National Guard as the administrator, and the establishment of the Disaster Assistance Fund.

Charles (Chuck) Bredahl, Acting Deputy Director for the Division of Emergency Preparedness (DEP), appeared before the Committee on behalf of the bill (Attachment 1). The bill would accomplish the following:

1. The Emergency Preparedness Trust Fund would assist counties and other local jurisdictions in emergency preparedness activities by providing training and communications equipment which would assist in saving lives, limiting damages, and speeding recovery in disaster events.
2. The Disaster Assistance Trust Fund will directly alleviate the tremendous financial impact on the state in case of emergency.

Cities in Kansas would be allowed to draw on this fund. Florida, Iowa, Virginia, and Illinois have accessed surcharges of \$2 and \$4 on property and casualty policies. Florida has collected \$15 million in the past year. There is no negative impact on the fiscal note for this plan. Three percent of the monies collected would be used for administrative costs and 2% of the awarded grants would be used for the purchase of equipment. No money would be spent out of the disaster fund for equipment or administration.

There would be a limit of \$5 million in each account with \$1 million generated the first year by policy holders. The Adjutant General would set the rules for drawing and allocations with needs and validity being assessed. Emergency preparedness is now funded from the general fund. There must be funding allocated to handle grant applications from the counties. The proposed funds would pay the state's share if federal disaster is designated by the president. Interest would accrue in the funds based on the repo rate.

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,  
Room 527-S Statehouse, at 3:30 p.m. on February 16, 1994.

Representative Nancy Brown stated that from her experience the importance of mitigation and preparedness are major components in emergency management (Attachment 2). Kansas has used reactive management and she recommends a dedicated source or mechanism for disaster funding. The preferred route in Kansas is to take money from the general fund. The proposed plan would provide money for communications for the current county plans. Leverage for federal funding might be available if a fund was already established.

Mickey Davis, Director of the Emergency Management Department for Kansas City, Kansas/Wyandotte County, stressed that the events of last year continue to re-enforce the need for a strong intergovernmental system of emergency management which includes local, stated and federal agencies (Attachment 3). The Emergency Preparedness Trust Fund would assist counties and cities in providing necessary manpower and equipment to be better prepared to respond and recover from large scale emergencies and disasters. The Disaster Assistance Trust Fund would allow the Kansas Division of Emergency Preparedness and local jurisdictions to make resource allocations during emergencies in a timely manner. Counties can identify high risk areas and work with insurance companies in educating the citizens who reside in those areas on the type of insurance they should be carrying.

Larry Blue, Inter-Lutheran Disaster Response in Wamego, stated that provisions in funding will assist emergency preparedness and allow for good decision making rather than reactive decision making which can be very costly. Decisions should be made in the most equitably and efficient way to enhance the delivery of emergency preparedness assistance.

William Sneed, State Farm, stated opposition to the plan due to the tax which would be created on certain property and casualty insurance policies (Attachment 4). The following concerns were stated regarding the proposed bill:

1. The wording on Line 15 should be changed to avoid an ambiguity regarding which types of policies would be subject to the surcharge. There would be disparity as some insurance companies provide individual policies and others use an umbrella method.
2. There is no mechanism within this proposal which would handle a situation in which the insured does not pay the surcharge. Florida is experiencing a nightmare in collection problems which include law suits.
3. The insurance companies would be required to collect the tax although there is no mechanism in the collection process where the insurance company can recover its direct cost in the collection of the tax.
4. The tax would be shown separately on the policy or the endorsement. Inasmuch as the tax would not show up on the insured's bill, this would require all insurance companies to refile every form and endorsement with the Insurance Department showing this charge.
5. The bill does not address the issue of the collection on a six-month policy.
6. The bill does not provide any direction on the handling of policies that are canceled mid-term.
7. The bill would be effective on July 1, 1994 but provides no direction as to how to handle policies currently in effect. There is not sufficient lead time to implement this proposal.
8. The bill may encourage people to not purchase insurance but simply tap into the pool.

Bud Cornish, Kansas Association of Property and Casualty, objects to the concept which would single out the insurance policy holders of this state to supply the financial support for emergency and disaster assistance programs (Attachment 5). The insurance companies would be responsible for the collection of the tax from the consumer with no mechanism for dealing with non-collection. If the tax is not paid, the company remains obligated to the Insurance Commissioner for its payment.

Lee Wright, Farmers Groups, and Rick Welborn, Alliance Insurance Company, requested the unfavorable reporting of the bill also.

Representative Crabb moved for the approval of the February 14 minutes. Motion was seconded by Representative Correll. Motion carried.

The meeting adjourned at 4:40 p.m. The next meeting is scheduled for February 17, 1994.



## GUEST LIST

COMMITTEE: House F & B

DATE: Feb 16, 1994

[illegible]

STATE OF KANSAS  
THE ADJUTANT GENERAL  
DIVISION OF EMERGENCY PREPAREDNESS  
2800 S.W. TOPEKA BLVD.  
TOPEKA, KANSAS 66611-1287

TESTIMONY ON H.B. 2800

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

FEBRUARY 16, 1994

Mr. Chairperson and Members of the Committee:

I am Charles (Chuck) Bredahl, Acting Deputy Director for the Division of Emergency Preparedness (DEP), and with me is Mr. Mike Selves Emergency Operations Coordinator for the Division. I am here to testify on behalf of H.B. 2800.

The Adjutant General's Department and the Division of Emergency Preparedness strongly support the proposed legislation as written. This bill is modeled on similar legislation passed last year by the State of Florida in response to serious needs as a result of Hurricane Andrew. It has proven to be extremely successful there and has resulted in significant improvement of the preparedness level of that state.

First, the emergency preparedness trust fund would assist counties and other local jurisdictions in emergency preparedness activities. In every disaster/emergency situation we find emergency management officials who could have performed their jobs more effectively, but due to a lack of training, communications equipment, etc. because of limited budgets, many planned or needed items were not available. We are not faulting any individual or jurisdiction--but simply point out limited assets mean limited preparation and response. The creation of the emergency preparedness trust fund would be the single most important thing we could do to significantly improve level of local preparedness in the state. This

*House F&I  
Attachment 1  
Feb. 16, 1994*

improved preparedness has been shown in disaster after disaster to be the key factor in saving lives, limiting damage and speeding recovery in disaster events.

Secondly, the disaster assistance trust fund will directly alleviate the tremendous financial impact on the state. In the 93 flood, DEP was given \$2.5 million from SRS, \$500,000 from the emergency fund and have a supplemental appropriation for \$300,000. These expenditures will need to be replaced, either by raising taxes, reducing state agency budgets or some other means. While this imposes a great deal of budgetary confusion and often negatively impacts the state agencies involved, these are not the most important problems associated with financing disaster assistance. Time and again, the lack of predesignated funds, with an independent funding source causes delays in both operational and recovery decision making. Officials who are unsure of "where's the money coming from?" Often delay crucial decisions until harm is done. Likewise, lack of identified funds to match Federal disaster relief can delay badly needed payments to victims of the disaster. This trust fund will insure that the state can adequately meet and deal with its responsibility to each of its citizens affected by a disaster.

In closing, we would appreciate your favorable consideration of the much needed legislation.



## NANCY BROWN

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TOPEKA  
—  
HOUSE OF  
REPRESENTATIVES

## COMMITTEE ASSIGNMENTS

LOCAL GOVERNMENT, CHAIRMAN  
TAXATION  
COMMUNITY DEVELOPMENT BLOCK GRANT  
ADVISORY BOARD  
EMERGENCY MEDICAL SERVICES BOARD  
NCSL, STATE-LOCAL-TRIBAL RELATIONS,  
CHAIRMAN  
NCSL, THE WOMEN'S NETWORK BOARD

February 15, 1994

## Testimony on HB 2800

**An Act concerning Disasters;  
relating to emergency preparedness and disaster assistance**

For more than a decade I have been involved with the emergency response community at the local, state and national levels. I have served on the Advisory Board of the Federal Emergency Management Agency, as Chairman of the State Emergency Response Commission, member of the Emergency Medical Services Board and Local Emergency Planning Committee. If I have learned anything through my years of activity, it is the importance of mitigation and preparedness, the components most often neglected by those in charge of emergency management.

Before one thinks I am being critical, I want to emphasize that it is not because mitigation and preparedness are not viewed as important as response and recovery in the management cycle. They are recognized to be a major component by all those involved in emergency management. It's because there is never enough money to mitigate, plan and prepare. The Legislature is a reactionary body, and seldom allocates resources to the front end of the continuum because there are never enough funds to go around to support the current activities, let alone future activities.

*reacts rather than plans*  
That's what this bill is all about. . . having sufficient funding in an *emergency preparedness* trust fund. The key to the bill is found on page 3, line 15: "The adjutant general shall establish a program for making grants to cities, counties and interjurisdictional disaster agencies to defray the costs of emergency preparedness activities, including but not limited to costs of administration, training of personnel and volunteers, exercises, planning, public education, coordination with other public agencies and private organizations and emergency operations."

Another major component is found on line 30 of page 3: a *disaster assistance* trust fund. This fund would be used to pay the state's portion of the nonfederal share of federal recovery and mitigation programs implemented in response to a major disaster declared by the President, and to pay administrative costs of DEP in administering the fund, and to provide for grants as indicated in section 5 of the bill.

The bill is patterned after a law enacted in response to the hurricanes in Florida. They sadly discovered that they were not prepared to handle the disaster, resulting in millions of additional monies spent which could have been better utilized with mitigation and preparation prior to the disaster.

*House J.D.S.  
Attachment 2  
Feb. 16, 1994*

I support the concept of the bill because I am a strong supporter of mitigation and preparedness activities and feel that we have some weaknesses in this area in the state of Kansas that I cannot see ever being funded through the general fund. Most states, after a disaster such as the Kansas floods, have taken a very comprehensive approach in reviewing their emergency management activities. We have taken a less comprehensive approach with the Flooding Task Force, which was basically limited by the lack of time and resources to do much more than conduct meetings.

However, The Task Force has issued a report and this bill is just one of the recommendations of that report. The House Local Government Committee is currently in the process of working with the Adjutant General and the Division of Emergency Preparedness in updating and amending some of its archaic statutes. However, we will be running out of time to do the thorough job that is needed. But we cannot wait until the next disaster hits. . . and there will be one! We must mitigate and prepare now, and to adequately do so, we need a dedicated funding source. HB 2800 provides one method to obtain dedicated funds to prepare for the safety of all Kansans. I will be happy to work with your committee or a subcommittee in the undertaking of a comprehensive emergency management approach in the State of Kansas. Our citizens deserve no less!

# Disaster plans to the forefront

By H. LEE MURPHY

Last year it was Hurricane Andrew in Florida and the Rodney King riots in Los Angeles. This year saw the World Trade Center bombing in New York City and the floods along the Mississippi River.

A series of epic disasters — starting with the 1989 Exxon Valdez oil spill in Alaska — has focused unprecedented scrutiny in recent years on public-sector planning and preparedness, much of it in the form of unfavorable, even derisive, comment from the media.

Of course, disaster is never easy to plan for, but public officials queried recently in an exclusive *City & State* survey expressed general satisfaction with their preparedness for a wide variety of calamities, ranging from fire and floods to chemical spills and terrorist bombings.

However, many fire and police chiefs, along with emergency service directors, show continuing frustration over the budget process.

"Disaster preparedness is a backburner problem. The only time it isn't is when you're in one or recovering from one," declared Allen R. Carter, the fire chief of Santa Ana, Calif., population 239,540, which sent firefighters to assist Los Angeles in the Rodney King riots last year.

"Right after those riots, the city agreed to buy bullet-proof vests for our entire department, at \$400 each for 260 employees. For other kinds of disasters, though, we routinely put together requests for resources and rarely get what we need. That's part of the job."

Nevertheless, most public officials believe the planning process has advanced significantly during the past decade. "We're much better prepared for disaster today. We've had more experience to build upon."

## Survey finds that preparedness can hit budget walls

said James Barca, emergency management coordinator for the city of St. Petersburg, Fla., population 240,000. Mr. Barca and his colleagues rewrote the city's hurricane plan after studying the devastation wrought by Andrew in Dade County a year ago. "We had never planned for a storm to hurt us here as badly as Andrew hurt Dade," Mr. Barca admitted.

The survey had a strong resonance with many respondents, coming at the time of a spate of disasters around the nation. "This has been an incredibly busy time for many disaster agencies," observed Eric Bails, a consultant with the Talon division of D. Appleton Co., Manhattan Beach, Calif., a business engineering and consulting firm that conducted the poll for *City and State*.

"A lot of disaster agencies are ignored for nine years out of 10. But there have been so many high-profile incidents and tragedies lately that the public's attention has really been focused again on these people," Mr. Bails added.

The 159 officials surveyed from jurisdictions of 100,000 or more in population accorded themselves highest marks for identifying potential emergencies, marshaling response resources and maintaining a response infrastructure. The ability to identify potential disasters might seem obvious, yet is critical for budget-strapped departments.

"Setting priorities is awfully important, because everybody wants to get the most bang for the buck in

See *Emergency* on Page 20

## Be prepared

For which disasters is your jurisdiction prepared?

Fires	93.71 %
Chemical/biological spills	91.19
Airplane/train/auto crashes	88.68
Power/phone outages	88.05
Floods	83.65
Industrial accidents	77.99
Riots	76.73
Collapses	74.21
Tornadoes	71.07
Bombs	67.92
Earthquakes	47.17
Epidemics	43.40
Hurricanes	37.11
Tides/waves	23.90

Which disasters did your jurisdiction respond to in the last three years?

Floods	60.53 %
Chemical/biological spills	59.87
Fires	54.61
Airplane/train/auto crashes	42.76
Power/phone outages	29.61
Tornadoes	28.29
Industrial accidents	25.00
Hurricanes	23.03
Riots	22.37
Earthquakes	15.79
Bombs	13.16
Collapses	13.16
Tides/waves	10.53
Epidemics	3.95

How often is training conducted?

Ad-hoc	25.83 %
Semiannually	19.21
Annually	18.54
Quarterly	17.88
Monthly	17.88
Continually	0.66

Source: *City & State* and Talon/D. Appleton Co.

Graphic by Chris Roy



# Emergency

Continued from Page 3

planning," said James Hunt, president of Hunt Research Corp. in Solvang, Calif., a private consultant that helps both government and industry develop disaster plans. "You probably shouldn't be spending all your time on tornadoes and nuclear war if you have a bunch of chemical refineries in your town. In fact, hazardous materials are becoming our greatest risk nationwide now."

Many of the *City & State* respondents agreed. When asked to rank disaster threats, almost 94% mentioned fire, 91% vehicle crashes and 89% power outages. Chemical spills were mentioned by 88% of those surveyed, above floods (84%), bombs (77%) and earthquakes (43%).

In the aftermath of Los Angeles' riots last year, it's interesting to note that while 71% of those surveyed believed riots were a threat to

their jurisdiction, just 46% had an infrastructure in place to prevent or mitigate such unrest.

Disaster planning has taken on a different tenor in California recently. The Watts riots in Los Angeles in 1965 first focused attention on riot control, but the lessons learned then had been allowed to fall into disuse before the South Central L.A. riots last year after the verdicts in the King beating case.

"Everything has changed. We're putting great emphasis on this kind of planning now," said Fire Chief Carter of Santa Ana. One element of his latest plan: Strike teams are being made smaller and increasingly mobile, with more of an emphasis on so-called exterior firefighting.

"It's dangerous, we found, sending firefighters into burning buildings in a time of civil disturbance. Our approach from now on will be to contain the fires from the outside and make sure they don't pass to ad-

joining structures," Mr. Carter said.

The survey found a remarkably busy schedule of emergency response training within most disaster agencies. Some 35% of respondents said they trained either monthly or quarterly, while another 38% said they trained either semi-annually or annually. More than 55% said their drills were live simulation.

## Practice what you preach

Even in small McLean County in central Illinois — population 140,000, encompassing the twin cities of Bloomington and Normal — training is serious business. James Wahls, county emergency services and disaster agency director, stages three conferences a year, including a weather spotting class that attracted upwards of 150 volunteers in March. The county has done live simulation drills of tornadoes and even terrorist activity, with a school bus boarded by a mock hijacker who took children as hostages.

"You have to practice what you preach," stressed Mr. Wahls, who is constantly meeting with local fire chiefs and police chiefs. "Without planning, you have total chaos. With planning, it will be organized chaos."

His program showed its stripes in mid-June when a tornado spun suddenly through the town of Gridley. Weather spotters saw it coming and alarms were sounded in time to allow residents to run for cover. Downed trees and power poles were cleared out of streets within hours by a corps of volunteers who leaped into action.

Disaster agencies are increasingly establishing liaisons with private industry for aid in emergencies, with 48% of survey respondents identifying links with phone companies and 20% with utilities. The township of North Hempstead, N.Y., had drilled repeatedly for nursing home evacuations within the 31 villages in its jurisdiction. When a fire struck the Sands Point Nursing Home late last year, residents were smoothly routed to a nearby high school.

"It was an orderly evacuation and there were no fatalities," said Anne

## Top priorities

Responses from the 1993 Emergency Preparedness survey cite the most important issues, according to:

### Budgeting authorities

Funding	32.80 %
General preparedness	21.60
Specific disaster preparation	12.80
Maintaining communications	7.20
Accessibility/public relations	5.60
Prevention	4.80
Specific response capability	4.00

### Departments

General preparedness	21.28 %
Proper planning process	19.15
Training	13.48
Maintaining communications	10.64
Maintaining response network	7.80
Specific disaster preparedness	6.38
Funding/lack of cost recovery	4.96

\* Top seven responses from each category; multiple responses allowed  
Source: *City & State* and Talon/ D. Appleton Co.



Graphic by Chris Roy

Croce, deputy commissioner of community services in North Hempstead. "But we only had one phone line for communication at the school, with hundreds of relatives, emergency personnel and even reporters trying to call in. We learned only later from the phone company that we could have extra lines patched through very easily. Planning with outside agencies is important, I found."

The survey also found that most planning is from the bottom up, meaning that it originates locally and moves through channels toward state and federal levels. Some 79% of localities said they initiate interaction with the state, while just 5% said the state initiates contact with the local agency.

## States, feds slow to react

That was no surprise to Mr. Bails, who sees plenty of room for change on this score. "The state and federal governments have the resources, but they're usually slow to be freed up," said Mr. Bails. "Look at the King riots. It took three days to get the National Guard deployed, and then another day to get the soldiers armed properly because somebody forgot to bring along the ammunition truck."

On the other hand, he pointed out: "Localities have a better handle on how to respond to disasters. They usually know what has to be done a lot faster than state or federal officials can know. The problem is getting the resources coordinated."

Even the best planning, in the end, can be overwhelmed by extraordinary circumstances. The flooding along the Mississippi, for instance, put whole towns under water in midsummer. That resulted from a confluence of storms that experts agreed occur perhaps once in 500 years.

"Most fires are small and can be stomped out with your feet, and most releases of hazardous materials are insignificant. It's tough to figure out the worst case, and it's always possible that the incredible event will catch you," Mr. Hunt, the consultant, said. "But that doesn't stop you from planning, employing credible risk assessments. Domsday scenarios are overwhelming and you can't be expected to handle every aspect of them. It's unrealistic, for instance, to plan for flooding by asking everybody to move away from the Mississippi."

"In the final analysis, you use the best you can with the resources you have available."

7-8-2

**EMERGENCY MANAGEMENT DEPARTMENT  
CITY OF KANSAS CITY, KANSAS**

MUNICIPAL OFFICE BUILDING  
ONE MCDOWELL PLAZA

701 NORTH SEVENTH STREET, ROOM B-20  
KANSAS CITY, KANSAS 66101  
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February 16, 1994

Hon. Bill Bryant  
Representative 106th District  
Kansas House of Representatives  
State Capitol  
Topeka, Kansas 66672

**PREPARED STATEMENT OF MICKY DAVIS, DIRECTOR  
KANSAS CITY, KANSAS/WYANDOTTE COUNTY  
EMERGENCY MANAGEMENT DEPARTMENT**

Mr. Chairman and members of the Committee:

I thank you for the opportunity to address you and the other members of the Insurance Committee.

As Director of the Emergency Management Department for Kansas City, Kansas/Wyandotte County, Kansas, I would like to offer you my comments in support of HB 2800. Kansas City, Kansas/Wyandotte County experienced the most severe flooding since the great flood of 1951. The events last year continue to re-enforce the need for a strong intergovernmental system of emergency management. The intergovernmental system must include local, state and federal agencies. Local counties and cities must be prepared to respond to emergencies and large-scale disasters with very little warning. Effective preparedness and response efforts will reduce the loss of life and property during large-scale emergencies and disasters.

Emergency Preparedness Trust Fund

This trust fund will assist local counties and cities in providing necessary resources, both manpower and equipment to be better prepared to respond and recover from large-scale emergencies and disasters. Without this trust fund, local counties and cities have

*House File  
Attachment 3  
Feb. 16, 1994*

limited resources to provide effective preparedness and response plans to protect against loss of life and property.

#### Disaster Assistance Trust Fund

This fund will allow the Kansas Division of Emergency Preparedness and local jurisdictions to make resource allocations during emergencies in a timely manner. The City of Kansas City, Kansas establishes a \$100,000 emergency account annually to be used for large-scale emergencies and disasters. This fund was inadequate for the summer floods of 1993. Without the assistance from the State of Kansas and the Federal Emergency Agency, it would have been very difficult for the jurisdictions located within Wyandotte County to have recovered from the summer floods of 1993.

#### Summary

I feel that this bill is an effective way to provide the necessary resources to the State of Kansas and all local counties and cities therein.

Thank you for your time and attention Mr. Chairman and members of the Committee. I would welcome any questions you may have.



## MEMORANDUM

TO: The Honorable William Bryant, Chairman  
House Financial Institutions and Insurance Committee

FROM: William W. Sneed  
Legislative Counsel  
The State Farm Insurance Companies

DATE: February 16, 1994

RE: H.B. 2800

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Mr. Chairman, Members of the Committee: My name is Bill Sneed and I am legislative counsel for The State Farm Insurance Companies. Please accept the following as our testimony in regard to H.B. 2800.

As will be explained by the proponents of H.B. 2800, this bill is creating pool of funds to make available for disaster assistance. As you can see in Section 1, this money is generated by imposing a tax on certain property and casualty insurance policies. With recent natural disasters in mind, we certainly understand the state's interest in such a proposal. However, we believe for several reasons H.B. 2800 is an inappropriate vehicle to meet these goals.

Due to the catastrophic and unpredictable nature of several important perils, property insurance policies do not automatically provide coverage for losses caused by all of the perils which can impose significant amounts of damage to policyholders. These catastrophic perils would include major earth movement and flooding. In this regard, my client has been involved on several fronts.

*House FD 1  
Attachment 4*

*Feb. 16, 1994*

The Federal Flood Insurance Program has been in existence for over twenty years. Private insurers participate with the federal government in the functions of this federally subsidized program. Insurers have assumed responsibility for the marketing and operational aspects of the program, while the federal government remains fully at risk for the financial exposure to loss. My client is a major participant in this program. As a result of this partnership between government and insurers, flood insurance has become more widely available to those persons threatened by flood-related disasters. In regard to earthquakes, my client believes that private industry and the federal government must join in seeking a solution to what are becoming basic insurance needs. We have stated publicly that such a cooperative program must include the following essential elements:

(A) Primary program (residential properties).

- (1) coverage for earthquake and volcanic eruption must be either mandatory, or implemented through a system of incentives resulting in widespread policyholder participation;
- (2) a federal agency FEMA would require or provide incentives for participation of all insurers licensed to write basic property insurance perils;
- (3) the insurance industry would operate the insurance program. The federal government would oversee the program and provide for the tax-free accumulation of premiums and provide federal funds as backup when needed, repayable with interest;

- (4) effective land use reform must be legislatively mandated to minimize catastrophic loss exposure. This would include a complete overview of building codes throughout the United States.

(B) Excess reinsurance program.

The excess reinsurance program would provide high-level federal financial backup to insurers and reinsurers for property and casualty losses (not covered under Part A) arising out of earthquake and volcanic disasters.

It is my client's contention that any proposed state legislation dealing with flood and earthquake coverage should complement, to the extent possible, proposed federal programs. My client has been working with the federal government, along with the National Association of State Legislatures, in order to prepare a comprehensive program.

We believe that H.B. 2800 is premature and potentially could create a conflict in an overall plan to address this issue. Specifically, we have the following concerns in regard to the proposed bill.

1. In Section 1, the legislation speaks about an annual surcharge on each "property and casualty policy" and then goes on to discuss the types of policies that will be charged under this proposal. Although potentially a technical problem, it appears to us that the wording on line 15 should be changed so as to not create an ambiguity.

2. Next, there is no mechanism within this proposal that would handle a situation in which the insured does not pay the surcharge. If an insured fails to pay the



surcharge, based upon generally accepted insurance procedures, the policy would be cancelled, and an individual insured may wind up without any coverage at all.

3. Although the insurance companies have been required to collect the tax, there is no mechanism in the collection process whereby the insurance company can recover its direct cost in the collection of such tax. That being the case, those charges would most likely be included in the rate base, and again would increase the cost of this type of insurance.

4. Starting on line 26, the bill requires that the tax be shown separately on the policy or the endorsement. Inasmuch as the tax would not show up on the insured's bill, this would require all insurance companies to refile every form and endorsement with the Insurance Department showing this charge. This, again, would add additional costs to the system, which would ultimately be passed on to the consumer.

5. Many insurance companies issue six-month policies. The bill does not address the issue of the collection on a six-month policy. Is the tax a flat fee regardless of the term of policy? If so, does that mean an individual who purchases two consecutive six-month policies would pay twice the tax as compared to an individual who purchased a one-year policy?

6. The bill also does not provide any direction on the handling of policies that are cancelled mid-term. This brings up several issues on the handling of whether a refund is issued to the insured or if the insured, after cancellation, purchases insurance from a new company, whether an additional tax is collected or if there is a credit for the

previous tax collected. Further, what affect does any of this proposed collection have depending on who cancels the business, i.e., whether it is cancelled by the insurer or the insured?

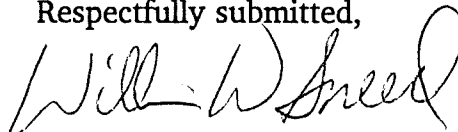
7. We are also concerned about the timing of H.B. 2800. Although the bill requires payment to the state on or before March 1, the bill would go effective on July 1, 1994. The bill provides no direction as to how to handle policies currently in effect. Further, since most companies bill thirty to forty-five days in advance, there is not sufficient lead time to implement this proposal.

8. As stated earlier in regard to our work with the national program, we are concerned that if a bill such as H.B. 2800 is imposed, the bill may encourage people to not purchase insurance. If insureds realize that such a pool of money is available, an individual may simply not carry insurance, and if such a loss occurs, simply tap into the pool itself. Certainly this would create a disproportionate effect within the market inasmuch as the individuals who most likely need this type of insurance would not be paying for it and simply enjoying the benefits generated by those people who are purchasing insurance.

My client is actively working on this issue on the national level and in conjunction with the NCSL. Although we certainly recognize the problem faced by the many states on this issue, we believe that H.B. 2800 is premature, and as such, we would respectfully request that the Committee act disfavorably on the bill.

We appreciate the opportunity to present this testimony, and if you have any questions, please feel free to contact me.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Will W. Sneed". The signature is fluid and cursive, with the first name "Will" and last name "Sneed" clearly distinguishable.

William W. Sneed



*Kansas Association of*

PROPERTY & CASUALTY  
INSURANCE COMPANIES, INC.

L. M. Cornish  
Legislative Chairman  
Merchants National Tower  
P. O. Box 1280  
Topeka, Kansas 66601

MEMBER COMPANIES

Armed Forces Ins. Exchange  
Ft. Leavenworth  
Bremen Farmers Mutual Ins. Co.  
Bremen  
Consolidated Farmers Mutual Ins. Co., Inc.  
Colwich  
Farm Bureau Mutual Ins. Co., Inc.  
Manhattan  
Farmers Alliance Mutual Ins. Co.  
McPherson  
Farmers Mutual Insurance Co.  
Ellinwood  
Great Plains Mutual Ins. Co., Inc.  
Salina  
Kansas Mutual Insurance Co.  
Topeka  
Marysville Mutual Insurance Co., Inc.  
Marysville  
Mutual Aid Assn. of the Church of the Brethren  
Abilene  
Patrons Mutual Insurance Co.  
Olathe  
Skandia U.S. Insurance Co.  
Topeka  
Swedish American Mutual Insurance Co., Inc.  
Lindsborg  
Town and Country Fire and Casualty Ins. Co., Inc.  
Hutchinson  
Upland Mutual Insurance, Inc.  
Chapman  
Wheat Growers Mutual Hall Ins. Co.  
Cimarron

February 16, 1994

TO: Members of the House Financial Institutions and Insurance  
Committee

RE: House Bill 2800

The Kansas Association of Property and Casualty Insurance

Companies opposes House Bill 2800 which would impose a tax on all

Kansas property and casualty policyholders.

The Association is composed of domestic fire and casualty  
companies, most of which are small rural mutual property insurance  
companies which operate only in the state of Kansas.

The Association does not object to the establishment of  
emergency preparedness or disaster assistance. It does, however, object  
to a concept which would single out the insurance policyholders of this  
state to supply the financial support for these programs.

If there is serious need for this statewide service for all Kansans,

*House F&I  
Attachment 5  
Feb. 16, 1994*

then its support should be from all Kansas tax payers, not just Kansas insurance consumers.

The establishment and development of a disaster assistance program is a service which benefits the public generally. It is inequitable to require Kansas insurance consumers to pay a tax to support a general public service. Insurance consumers should not be penalized because they have prudently purchased insurance to protect themselves and their families.

HB 2800 imposes a surcharge, (which is clearly a tax) on each property and casualty insurance policy issued in this state. This is a tax on every home owner, farm owner, and mobile home owner as well as an additional tax on every commercial and business owners policy issued in Kansas. The bill also covers "each property and casualty policy" which includes auto and workers compensation policies.

This Bill makes the insurance companies responsible for the collection of the tax from the consumer. If the insured fails to pay the tax, the insurance company remains obligated to the Insurance Commissioner for its payment.

This tax would be collected for the use of all Kansans in the event of a disaster, but is being paid by only those citizens which purchase property and casualty insurance. If this tax collection is for the benefit of the general citizenry, it should be paid by the general public.

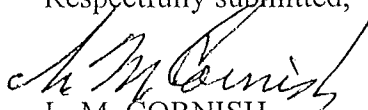
The practice of dedicating specific sources of tax revenue for special purposes ("earmarking") has long been a serious budgetary and tax problem as it is the equivalent of a partial surrender by the Legislature of the state's purse strings.

In matters where "earmarking" is approved, there is generally a close relationship between the tax source and the tax recipient. There is not such relationship between insurance policyholders and the raising of funds for possible future disaster relief.

We believe this attempt to "earmark" funding is poor public policy. Kansas insurance companies and their policyholders believe the obligation to finance a statewide disaster relief project should be borne not just by those who have provided insurance for their families, but by all taxpayers.

The Topeka Capital Journal recently published an editorial describing this "a back door tax and another bad law." We have attached a copy for your reading.

Respectfully submitted,



L. M. CORNISH

LMC:aj

LME



Robert J. Hivoly	<i>Publisher</i>
R. Joe Sullivan	<i>Executive Editor</i>
Mark Nusbaum	<i>Managing Editor</i>
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Jeff Jacobsen	<i>Managing Editor/Photo</i>
Michael Ryan	<i>Editorial Page Editor</i>

## EDITORIALS

### LEGISLATURE

# What is state's role?

**W**hy do citizens pay taxes and support a state government? That may sound like a frivolous question, but it isn't.

The answer, of course, is that the citizens are contracting for services they can't or shouldn't have to provide for themselves: protection from thieves and bandits, access to educational opportunities, occasional aid to cope with some unforeseen natural or man-made emergency.

In the current fiscal year, Kansans will pay just over \$7 billion for state government.

It gives one pause, then, when a legislative task force pops up at the beginning of a brand new law-making session to propose an insurance tax surcharge on businesses and home owners for a disaster relief fund.

It wouldn't be much, said Rep. Nancy Brown, R-Stanley, apologetically; \$1 annually for each home

**■ This is a back-door tax and another bad law. Forget it.**

owner's policy and \$2 annually for each business policy, but it would provide about \$1 million a year for disaster relief to be used for assistance grants or aids to local governments. That way, she said, bureaucrats wouldn't have to scramble to reshuffle departmental budgets next time the rivers rise or the tornadoes roar through.

Let's be frank, Rep. Brown. That tax — and it is a tax, no matter what you call it — would be swallowed up in the endless reams of budget figures so fast no one would ever find it. And next time, we'd be back to the same scramble.

This is another attempt at bad law.

Let 'em scramble. That's what we pay 'em \$7 billion plus for.